UNITED STATES BANKRUPTCY APPELLATE PANEL OF THE FIRST CIRCUIT

| In re: | * | |
|---------------------------|---|----------------------|
| | * | |
| CARLOS R. SANDOVAL ARVELO | * | BAP No. PR 96-077 |
| and REGINA CRUZ VILLEGAS | * | |
| Debtors | * | |
| | * | |
| | * | |
| | * | |
| CARLOS R. SANDOVAL ARVELO | * | Case No. 96-04982GAC |
| and REGINA CRUZ VILLEGAS | * | |
| Appellants | * | |
| | * | |
| v. | * | |
| | * | |
| PONCE BANK | * | |
| Appellee | * | |
| | * | |

Before VOTOLATO, GOODMAN and VAUGHN, U.S. Bankruptcy Judges.

ORDER OF DISMISSAL

PER CURIAM.

Before the Bankruptcy Appellate Panel is the notice of appeal filed by debtors, Carlos Sandoval Arvelo and Regina Cruz Villegas on November 20, 1996. Debtors appeal an order granting appellee's motion to dismiss the case by the United States Bankruptcy Court for the District of Puerto Rico entered on November 6, 1996.

The Bankruptcy Appellate Panel has jurisdiction to hear appeals from final judgments, orders and decrees issued by bankruptcy courts in the same manner as civil appeals taken from district courts to the courts of appeals and within the time limitations imposed by Rule 8002 of the Federal Rules of Bankruptcy Procedure. 28 U.S.C. § 158; Fed. R. Bankr. P. 8001(a). Rule 8002(a) of the Federal Rules of Bankruptcy Procedure provides that a "notice of appeal shall be filed within 10 days of the date of

the entry of the judgment, order or decree appealed from."

The filing of a notice of appeal within the time limitations set forth in the statute is "mandatory and jurisdictional." Browder v. Director, Dept. of Corrections of Illinois, 434 U.S. 257, 264 (1978); Feinstein v. Moses, 951 F.2d 16, 19 (1st Cir. 1991). Thus, the untimely filing of a notice of appeal results in a jurisdictional defect. In re Delaney, 29 F.3d 516 (9th Cir. 1994); Jacobson v. Nielsen, 932 F.2d 1272 (8th Cir. 1991); In re Slimick, 928 F.2d 304 (9th Cir. 1990); In re Satellite Systems Corp., 73 B.R. 610 (S.D.N.Y. 1987). See also, William L Norton, Jr., Norton Bankruptcy Rules Pamphlet, p. 547 (1995-1996 ed.); 9 Collier on Bankruptcy ¶ 8002.03[2] (15th ed. 1996).

Debtor's notice of appeal of the order dismissing the case was entered on November 6, 1996¹ was filed on November 20, 1996 and exceeds the 10 day jurisdictional limitation. Therefore, the Bankruptcy Appellate Panel lacks jurisdiction to review the bankruptcy court's order. Fed.R.Bankr.P. 8002(a) and 9006(a); In re Abdallah, 778 F.2d 75 (1st Cir. 1985) cert. denied, 476 U.S. 1116 (1986); In re Roanca Realty, Inc., 747 F.2d 816 (1st Cir. 1984).

Accordingly, debtors Carlos R. Sandoval Arvelo's and Regina Cruz Villegas's notice of appeal is hereby DISMISSED.

¹Although the notice of appeal states that the order appealed from was entered on November 14, 1996, this is incorrect.

SO ORDERED.

On this 14th day of January, 1997.